

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

VICTOR GARCIA,

Plaintiff,

v.

CV No. 20-601 GJF/CG

ALBERT SENA, et al.,

Defendants.

**THIRD ORDER EXTENDING
PLAINTIFF'S TIME TO SERVE SUMMONS AND COMPLAINT**

THIS MATTER is before the Court on Plaintiff's unopposed *Third Motion to Extend Time to Serve Defendants* (the "Motion"), (Doc. 28), filed December 11, 2020. Plaintiff seeks additional time to properly serve the Summons and Complaint upon Defendants. *Id.* at 3. Plaintiff filed his Complaint on June 22, 2020, (Doc. 1), and an Amended Complaint on September 10, 2020, (Doc. 4), alleging violations of 42 U.S.C. § 1983. The Court previously extended Plaintiff's time to serve Defendants with the Summons and Complaint to October 7, 2020, (Doc. 6), and further to December 13, 2020, (Doc. 19); (Doc. 20); (Doc. 26).

In the Motion, Plaintiff states that his attempts to serve Defendants Raphael Aguilar, Jacob Bonner, Steven Cope, and Darren McPherson have been unsuccessful during the extended service period granted by the Court. (Doc. 28 at 2). Plaintiff explains that his efforts have been slowed by the "ten-day quarantine, as well as a number of statewide restrictions on opening and travel" due to the COVID-19 pandemic. *Id.* Accordingly, Plaintiff asks the Court to find good cause exists to further extend Plaintiff's time to serve the Summons and Complaint on Defendants. *Id.* at 3.

Upon a showing of good cause by a plaintiff, the Court is required to extend the time for service for an appropriate period. FED. R. CIV. P. 4(m). Even if the plaintiff has not demonstrated good cause for an extension of time, the Court may, in its discretion, extend time to effect service. *Espinoza v. United States*, 52 F.3d 838 (10th Cir. 1995). The Court finds Plaintiff's good faith efforts to locate and verify Defendants given the obstacles posed by the COVID-19 pandemic constitutes "good cause" for an extension of time to serve the Summons and Complaint. The Court further notes extending the time for service will not prejudice Defendants, and the Defendants who have been served do not oppose the Motion. See (Doc. 28 at 2).

IT IS THEREFORE ORDERED that Plaintiff's *Third Motion to Extend Time to Serve Defendants*, (Doc. 28), be **GRANTED**. Plaintiff shall serve the Summons and Complaint upon Defendants by **January 14, 2020**.

IT IS FURTHER ORDERED that Defendants' responses to Plaintiff's Complaint are due **February 4, 2021**.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE